

REMARKS

No claims have been amended, canceled or added as part of this Reply. Accordingly, claims 8-39 are currently pending in the instant patent application.

A. Objection to the Specification

The Examiner has objected to the specification for failing to provide proper antecedent basis for claim 39. Amendments have been made as requested by the Examiner to correct this problem. Support for this amendment comes from, at least claim 39 as filed, and one of ordinary skill in the art would understand this at least from ¶ 32 of the original Specification.

B. Claim Rejections

Section 103(a) Rejections

In responding to the Examiner's prior art rejections, Assignee here only discusses the patentability of the independent claims (*i.e.*, claims 8, 23, 31 and 39). As the Examiner will appreciate, should these independent claims be patentable over the prior art, dependent claims would also necessarily be patentable. Accordingly, Assignee does not separately discuss the patentability of the dependent claims, although Assignee reserves the right to do so.

The Examiner has rejected claims 8-39 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Publication 2003/0011637 to Boudier (Boudier) in view of U.S. Publication 2005/0041031 A1 to Diard (Diard).

Boudier

Boudier is directed to optimization of a scene graph. Boudier's scene graph is defined as "[t]he ***nodes of a scene graph represent features of the scene, such as physical objects and their attributes (e.g., colors and textures). The edges of a scene graph represent associations between the connected nodes.*** A node representing an object for example, may be connected to a node representing a texture

for that object.” Boudier at ¶ 1 (emphasis added). Boudier further clarifies this definition with “[a]n example of a scene graph is shown in **Fig. 1**. Scene graph **100** represents a house. The house is identified with root node **110**. The house includes a number of components, such as door **120**, roof **130**, and aggregate walls **140**. Individual walls **150** through **180** are associated with aggregate walls **140**. Each wall can have some number of attributes. For example, wall **180** is shown having texture **190**.” Boudier at ¶ 1.

Claim 8

Independent claim 8 is directed to a method of creating an image with the image represented by an image graph comprising one or more GPU programs and inputs and outputs from those programs. The graph of the instant claims is further described in the Specification at least at ¶¶ 36-41. However, the graph disclosed in Boudier does not have anything to do with programs and inputs/outputs to programs. The nodes in Boudier’s graph represent features such as physical objects and attributes such as colors. The edges in Boudier’s graph represent associations. This is a fundamentally different kind of graph from what is recited in Independent claim 8. In fact, the only thing in common between the disclosed graph of Boudier and the graph of the instant specification is that they both are used in the very common manner of representing associations between things.

In asserting that Boudier discloses the limitation “said image graph comprising one or more GPU programs, inputs to those programs and outputs from those programs,” the Examiner cites to ¶ 42 of Boudier. However, the cited portion of Boudier merely describes that computer programs can be executed on processors to process a scene graph. In no way does Boudier disclose that programs are represented by nodes of a graph. In fact, as stated above, the graph of claim 8 and the graph disclosed in Boudier are fundamentally different representations of information. Further, there seems to be no logical method by which one could modify Boudier to arrive at the claimed invention – without the use of hindsight. Further, modifying Boudier as the Examiner proposes vitiates Boudier for its intended purpose (another indication that it is

hindsight and not technical similarity that supports the Examiner's allegation). Therefore, Boudier fails as a primary reference and either alone or in combination with the proposed use of Diard, cannot render claim 8 obvious. As a consequence, the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. 103 or established Patent Office examining guidelines. Assignee respectfully requests the Examiner withdraw this rejection.

Furthermore, each of claims 9-22 depend from independent claim 8. Because Boudier alone or in combination with Diard does not disclose each and every limitation of independent claim 8, each of claims 9-22 are patentable over the cited art. Assignee respectfully requests the Examiner withdraw this rejection.

Claim 23

The Examiner asserts that independent claim 23 is similar in scope to the combination of claims 8, 11, 14, 17, and 20 and incorporates the rationale for rejecting those claims into the rejection of claim 23. *See* Office Action dated 6 October 2008 at p. 11. The arguments above, regarding the fundamental difference between Boudier and claim 8, apply with equal force here.

Additionally the Examiner specifically asserts in his rejection of independent claim 23 that "Boudier teaches ... creating a representation of said rendered polygon comprising a root program and its relationship with other programs, their inputs and outputs." Office Action dated 6 October 2008 at p. 12. However, Boudier is silent as to any kind of relationship between a program and other programs. The relationship disclosed in Boudier is an association between a physical object and an attribute of that physical object.

Boudier therefore fails as a primary reference and either alone or in combination with the proposed use of Diard, cannot render claim 8 obvious. As a consequence, the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. 103 or established Patent Office examining guidelines. Assignee respectfully requests the Examiner withdraw this rejection.

Furthermore, each of claims 24-30 depend from independent claim 23. Because Boudier alone or in combination with Diard does not disclose each and every limitation of independent claim 23, each of claims 24-30 are patentable over the cited art. Assignee respectfully requests the Examiner withdraw this rejection.

Claim 31

The Examiner asserts that independent claim 31 is similar in scope to claim 23 and incorporates the rationale for rejecting that claim into the rejection of claim 31. *See* Office Action dated 6 October 2008 at p. 15. The arguments above, regarding the fundamental difference between Boudier vis-à-vis claims 8 and 23, apply with equal force here.

As shown above, Boudier fails as a primary reference and either alone or in combination with the proposed use of Diard, cannot render claim 31 obvious. As a consequence, the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. 103 or established Patent Office examining guidelines. Assignee respectfully requests the Examiner withdraw this rejection.

Furthermore, each of claims 32-38 depend from independent claim 31. Because Boudier alone or in combination with Diard does not disclose each and every limitation of independent claim 31, each of claims 32-38 are patentable over the cited art. Assignee respectfully requests the Examiner withdraw this rejection.

Claim 39

Independent claim 39 recites a computer readable medium to perform the methods recited in each of claims 8, 20, 23 or 31. Since each of these claims are clearly patentable over the cited art as discussed above, so too is claim 39. Assignee respectfully requests the Examiner withdraw this rejection.

Comment regarding rejection to claim 20

In rejecting dependent claim 20 the Examiner specifically states that "optimizations are performed on DODs forming new DODs." Office Action dated 6

October 2008 at p. 10. Assignee does not understand this comment and directs the Examiner to ¶ 92 of the instant specification which explains that the "domain of definition of an image is a representation of all places in which the image is defined." As such, Assignee does not understand "optimizations are performed on DODs forming new DODs."

Conclusion

This paper is intended to be a complete response to the above-identified Office Action. Assignee believes no fees are due. However if it is found that additional fees are due the Commissioner is authorized to deduct the necessary charges from Deposit Account: 501922/119-0041US.

Reconsideration of pending claims 8-39 in light of the above remarks is respectfully requested. If, after considering this Reply, the Examiner believes that a telephone conference would be beneficial towards advancing this case to allowance, the Examiner is strongly encouraged to contact the undersigned attorney at the number listed.

/William M. Hubbard/

William M. Hubbard, J.D.
Reg. No. 58,935

Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.

Customer No. 29855 Voice: 832-446-2445
20333 SH 249, Suite 600 Mobile: 713-302-4648
Houston, Texas 77070 Facsimile: 832-446-2424
Email: whubbard@counselip.com